

September 25, 2023

The Honorable Daniel Werfel
Commissioner
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

Dear Commissioner Werfel:

I am writing to ask that you take action on behalf of low- and middle-income taxpayers adversely effected by the reported 30 million information return documents destroyed in 2021.

As you know, if a taxpayer who claims the Earned Income Tax Credit (EITC) is audited, they must provide the IRS proof of their “earned income.” For some, this information is submitted by third parties to both the IRS and the taxpayer on an information return such as Form 1099. When the IRS destroyed millions of these documents for tax year 2019, it was unable to confirm eligibility for certain EITC applicants because it no longer had access to their proofs of income.

Along with the Child Tax Credit, the EITC is one of the most effective tools we have to put money back in the pockets of working people. Millions of workers with and without children count on this tax cut to keep up with the rising cost of living. I am very concerned by reports that some taxpayers eligible for this credit have had to seek legal assistance to receive the credit to which they’re eligible, or undergo an audit arising from missing information because it was destroyed by the IRS. If these reports are true, there are likely others who are either still owed the credit or may have had to pay back the credit with penalty and interest. This is in spite of the fact that the IRS stated last year that “there were no negative taxpayer consequences as a result of” the documents being destroyed.

As you review this situation, I ask that you follow up with answers to the following questions:

1. How many taxpayers claimed the EITC in 2019 but didn’t receive payment because their Form 1099 was “not submitted?” How many were audited for this reason?
2. How many taxpayers claimed an EITC in 2019 but had to pay back their credit because their Form 1099 was “not submitted?” How much in penalties and interest did the IRS collect from these taxpayers?
3. How many taxpayers claimed an EITC in 2019 but only received payment after going to Tax Court?
4. How many taxpayers claiming the EITC does the IRS believe were affected by the destruction of these 30 million documents?
5. What is your plan for ensuring the taxpayers effected by the IRS’s mistake get the money to which they’re entitled?

Each and every taxpayer affected by the document destruction deserves to receive the appropriate tax credits for which they’re eligible. I look forward to hearing how you plan to resolve this problem.

Sincerely,

A handwritten signature in blue ink that reads "Sherrod Brown". The signature is written in a cursive, flowing style.

Sherrod Brown
United States Senator